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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-243

11 **CASSANDRA KAE BEHNE, AKA CASSIE**
12 **BEHNE**
13 **5300 W. Memorial Road, Apt. 22K**
14 **Oklahoma City, OK 73142**
15 **Registered Nurse License No. 707770**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

16 **FINDINGS OF FACT**

17 1. On or about October 20, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her
18 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
19 Consumer Affairs, filed Accusation No. 2012-243 against Cassandra Kae Behne, aka Cassie
20 Behne ("Respondent") before the Board of Registered Nursing.

21 2. On or about July 17, 2007, the Board of Registered Nursing ("Board") issued
22 Registered Nurse License No. 707770 to Respondent. The Registered Nurse License expired on
23 August 31, 2008, and has not been renewed. Pursuant to Business and Professions Code ("Code")
24 sections 118, subdivision (b) and 2764, this lapse in licensure, however, does not deprive the
25 Board of jurisdiction to take disciplinary action against Respondent's license.

26 3. On or about October 20, 2011, Respondent was served by Certified and First Class
27 Mail copies of the Accusation No. 2012-243, Statement to Respondent, Notice of Defense,
28 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,

1 and 11507.7) at Respondent's address of record which, pursuant to California Code of
2 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.
3 Respondent's address on record with the Board was and is:

4 **5300 W. Memorial Road, Apt. 22K**
5 **Oklahoma City, OK 73142.**

6 4. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

8 5. On or about November 9, 2011, the aforementioned documents served via Certified
9 Mail were returned by the U.S. Postal Service marked "Unclaimed." The aforementioned
10 documents served via First Class Mail have not been returned by the U.S. Postal Service as
11 undeliverable.

12 6. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts
15 of the accusation not expressly admitted. Failure to file a notice of defense shall
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
17 may nevertheless grant a hearing.

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
19 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
20 243.

21 8. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions
24 or upon other evidence and affidavits may be used as evidence without any notice to
25 respondent.

26 9. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 2012-243, finds

1 that the charges and allegations in Accusation No. 2012-243, are separately and severally, found
2 to be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$527.50 as of November 10, 2011.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Cassandra Kae Behne, aka
8 Cassie Behne has subjected her Registered Nurse License No. 707770 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
11 Nurse License based upon the following violations alleged in the Accusation which are supported
12 by the evidence contained in the Default Decision Evidence Packet in this case.:

13 a. **Disciplinary Action by the Oklahoma Board of Nursing.** Respondent is
14 subject to disciplinary action under Code section 2761, subdivision (a)(4), on the
15 grounds of unprofessional conduct in that Respondent's registered nurse license
16 was disciplined by the Oklahoma Board of Nursing ("Oklahoma Board").

17 i. On or about January 28, 2009, pursuant to the Stipulation, Settlement
18 and Order issued by the Oklahoma Board, in the disciplinary action
19 entitled *In the Matter of Cassandra Kae Behne, R.N. License No.*
20 *R0082775 (suspended)*, the Oklahoma Board continued to suspend
21 Respondent's registered nurse license and re-referred her to the Peer
22 Assistance Program of the Oklahoma Board of Nursing. The basis for
23 the Order is as follows:

24 ii. On or about January 24, 2008, Respondent voluntarily entered the Peer
25 Assistance Program after diverting controlled dangerous substances
26 belonging to her employer, Mercy Health Center in Oklahoma City,
27 Oklahoma, for her personal use.

28 iii. On or about October 16, 2008, Respondent was terminated from the

Peer Assistance Program for failure to comply with the terms and conditions of the Contract and Amended Contracts with the Peer Assistance Committee.

iv. On or about December 20, 2007, Respondent, while employed with Mercy Heath Center, Oklahoma City, Oklahoma, diverted ten syringes of Hydromorphone 2mg/ml that Respondent removed from the Omnicell on the Oncology Unit and ten tablets of Norco 10 that Respondent removed from the Med-Surg Unit. Respondent was in the facility in nursing attire and was off duty at the time of the diversions.

v. Respondent admits to having a problem with controlled dangerous substances.

b. Unprofessional Conduct. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), in that Respondent committed acts of unprofessional conduct. The conduct is more particularly described in paragraph 3, subparagraph (a)(i-v), inclusive, above, and herein incorporated by reference.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 707770, heretofore issued to Respondent Cassandra Kae Behne, aka Cassie Behne, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 6, 2012.

It is so ORDERED July 6, 2012



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID:LA2011504627
51022042.DOC

Exhibit A

Accusation Case No. 2012-243

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2012-243*

11 **CASSANDRA KAE BEHNE, AKA CASSIE**
12 **BEHNE**
13 **5300 W. Memorial Road, Apt. 22K**
Oklahoma City, OK 73142
14 **Registered Nurse License No. 707770**

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about July 17, 2007, the Board of Registered Nursing issued Registered Nurse
22 License Number 707770 to Cassandra Kae Behne, aka Cassie Behne ("Respondent"). The
23 Registered Nurse License expired on August 31, 2008, and has not been renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code ("Code") unless otherwise indicated.
28

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

STATUTORY PROVISIONS

5. Section 118, subdivision (b) of the Code provides, in pertinent part:

“(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

7. Section 2761 of the Code provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

(4). Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action . . .”

8. Section 2811, subdivision (b) of the Code provides:

“Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of nonpayment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing.”

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2 **COST RECOVERY**

3 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
4 administrative law judge to direct a licensee found to have committed a violation or violations of
5 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
6 enforcement of the case.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Disciplinary Action by the Oklahoma Board of Nursing)**

9 10. Respondent is subject to disciplinary action under Code section 2761, subdivision
10 (a)(4), on the grounds of unprofessional conduct in that Respondent's registered nurse license was
11 disciplined by the Oklahoma Board of Nursing ("Oklahoma Board").

12 11. On or about January 28, 2009, pursuant to the Stipulation, Settlement and Order
13 issued by the Oklahoma Board, in the disciplinary action entitled *In the Matter of Cassandra Kae*
14 *Behne, R.N. License No. R0082775 (suspended)*, the Oklahoma Board continued to suspend
15 Respondent's registered nurse license and re-referred her to the Peer Assistance Program of the
16 Oklahoma Board of Nursing. The basis for the Order is as follows:

17 12. On or about January 24, 2008, Respondent voluntarily entered the Peer Assistance
18 Program after diverting controlled dangerous substances belonging to her employer, Mercy
19 Health Center in Oklahoma City, Oklahoma, for her personal use.

20 13. On or about October 16, 2008, Respondent was terminated from the Peer
21 Assistance Program for failure to comply with the terms and conditions of the Contract and
22 Amended Contracts with the Peer Assistance Committee.

23 14. On or about December 20, 2007, Respondent, while employed with Mercy Health
24 Center, Oklahoma City, Oklahoma, diverted ten syringes of Hydromorphone 2mg/ml that
25 Respondent removed from the Omnicell on the Oncology Unit and ten tablets of Norco 10 that

26 Respondent removed from the Med-Surg Unit. Respondent was in the facility in nursing attire
27 and was off duty at the time of the diversions.

28 15. Respondent admits to having a problem with controlled dangerous substances.

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